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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,134	07/25/2003	Michael J. Curtis	119-P-03	9376
40801	7590	10/15/2004	EXAMINER	
NICHOLAS A. BRANNEN 104 SOUTH MAIN STREET, SUITE 300 FOND DU LAC, WI 54935			WILLSE, DAVID H	
			ART UNIT	PAPER NUMBER
			3738	
DATE MAILED: 10/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,134

Applicant(s)

CURTIS, MICHAEL J.

Examiner

Dave Willse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

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The abstract of the disclosure is objected to because on line 8, "complementary" is misspelled. Correction is required (MPEP § 608.01(b)).

The disclosure is objected to because of the following informalities: On page 3, line 11, "devise" should be replaced by --device--. On page 4, line 14, "complementary" is misspelled. On page 9, line 2, "120" should be replaced by --122--, and "122" should be replaced by --121--; on line 3, "hold" is misspelled. On page 10, line 7, "connectable" is misspelled. On page 11, line 7, "plane 25" is not believed to be indicated in the drawings; on line 10, "Therefore" is misspelled. In claim 1, line 12, "or" should be replaced by --of--. In claim 9, line 14, "concave" should read --convex--. In claim 22, line 2, "complementary" is misspelled. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Briggs et al., US 179,764, which discloses a first end **B-F**, a second end **A**, and a connector in the form of a pivot (first column, line 21). The first and second ends are

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certainly *capable* of being connected to respective prosthetic components, whether or not such was the intent.

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gelineau, US 5,800,564.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kegel, FR 2 708 848 A1: figures; Derwent abstract. Figures 1 and 4 illustrate a first end base **12**, a second end base **28**, and a connector presenting a fixed axis of rotation at element **27**, which is part of a universal joint (Derwent abstract, line 2). The convex portion **21** is adapted to be matingly connected to a concave surface defined by the set screws **14** and the cup shaped opening of the first end base **12**; alternatively, the matingly connected surfaces are viewed as those associated with the U-joint pivot axis perpendicular to the pivot axis at element **27**.

Claims 1-5 and 17-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lacroix, US 5,913,901. Regarding claim 17, the collared clamp at the bottom of lower arc section **38** is *capable* of being connected to a pylon, whether or not such was the intent.

Claims 1-4, 6, 7, and 9-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Buschman, US 1,030,383.

Claims 5, 8, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buschman, US 1,030,383. Regarding claim 5, serrations were well known in the art and would have been obvious in order to help prevent the handle angle from changing during brushing. Regarding claim 8, limiting the range of possible angular alignments to approximately 50 degrees would have been obvious in order to improve the durability of

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the band 25 and in view of the fact that a reverse angle configuration is unnecessary for the operation of the device. Regarding claim 16, approximately 2.5 degree increments would have been obvious in order to accommodate a wide range of users and applications.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelineau, US 5,800,564, or Lacroix, US 5,913,901, in view of Becker et al., US 5,755,812. Becker et al. teach that it is often necessary to make corrections in terms of flexion and extension, and adduction and abduction, of the stump socket relative to the rest of the prosthesis (column 1, line 36 et seq.). To incorporate the Becker et al. adapter adjustment into the Gelineau or Lacroix device would have been obvious in order to maintain amputee comfort when angular adjustments are made, with the ordinary practitioner having been motivated by the advantages discussed by Becker et al. at column 1, lines 41-50; to configure the adapter and the swivel connection such that the first (lower) end longitudinal axis is generally parallel to the stump socket central axis would have been obvious in order, for example, to allow the amputee to comfortably stand for long periods of time.

Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse whose telephone number is (703) 308-2903, and as of November 2, 2004, will be (571) 272-4762. The examiner can normally be reached Monday through Thursday and often on Friday. If attempts to reach the

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examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on (703) 308-2111. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

A handwritten signature in black ink, appearing to read 'Dave Willse', with a long horizontal flourish extending to the right.

Dave Willse
Primary Examiner
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